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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,968	12/05/2001	Toshihiro Tatsumi	60188-122	1394

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EXAMINER

HALIYUR, VENKATESH N

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/001,968	Applicant(s) TATSUMI, TOSHIHIRO	
	Examiner Venkatesh Haliyur	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-9 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Upon further consideration of amendment to claims 7-9,11 filed on 04/17/2006, a new ground(s) of rejection is made in view of YZAKI CORP; OPTOWAVE LAB (EP 0964552). Rejection follows.
2. Claims 7-9 and 11 are pending in the application. Claims 1-6 and 10 are cancelled in the amendment of 04/17/2006.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. The terms "logically unavailable path that is not eliminated path" in claim 11 is used by the claim to mean "established physical path which is logically unavailable", while the accepted meaning is "a physical path other than an annular path in a network which is logically

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unavailable". The term is indefinite because the specification does not clearly redefine these terms.

5. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 appears to be a system or an apparatus claim but fail to particularly point out and distinctly claim the subject matter as indicated below.

"A communication node forming a network" is indefinite because there are plurality of nodes connected in a network.

"an arbitrary transmission path in the network is eliminated and a port of the communication node is connected to a logically unavailable transmission path that is not the eliminated transmission path" is indefinite because it does not clearly indicate how an arbitrary transmission path in the network is eliminated and how the determination process of a logically unavailable transmission path that is not the eliminated transmission path is made between source and destination nodes.

"the communication node transmits a confirmation signal through the logically unavailable transmission path by making the logically unavailable transmission path available temporarily and determines whether or not an annular path is formed if the logically unavailable transmission path becomes available by determining whether or not the confirmation signal returns from a transmission path of the communication node other than the logically unavailable transmission path, and wherein when it is determined that no annular path is formed, the communication node keeps the logically

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unavailable transmission path available" is indefinite because it does not clearly indicate how a confirmation signal is received at a node by making a logically unavailable path available during the annular path determination process.

Appropriate corrections are needed to claim 11.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 7-9,11, are rejected under 35 U.S.C. 102(e) as being anticipated by YZAKI CORP; OPTOWAVE LAB (EP 0964552).

Regarding claim 7, Yazaki Corp; Optowave Lab hereafter referenced as YAZAKI et al. in their invention of "Network and Node devices" disclosed a method for correcting topology in a network including a plurality of communication nodes comprising: an annular-path (**loop**) determination process in which, when an arbitrary transmission

path is eliminated (**link AB of Fig 11**), at least one of communication nodes (**node C of Fig 11**) located at both ends of a logically unavailable transmission path (**link BC or link AC of Fig 11**), other than the eliminated transmission path, determines, as a determining node (**para 0001-0032, Figs 20-23**), whether or not an annular path is formed if the logically unavailable transmission path becomes available by making the logically unavailable transmission path available temporarily, and a transmission-path restoration process in which, when it is determined in the annular-path determination process that no annular path is formed, at least one of the communication nodes located at both ends of the logically unavailable transmission path maintains the logically unavailable transmission path available [**Figs 1-23, para 0001-0032, 0094-0100, 0129-0132**].

Regarding claim 8, YAZAKI et al. disclosed that the annular-path determination process, the determining node transmits a confirmation signal through the unavailable transmission path, and determines whether or not an annular path (**loop**) is formed by determining whether or not the confirmation signal (**bus reset signal**) returns from a transmission path of the determining node other than the unavailable transmission path (**a new link connected to the determining node**) [**Figs 1-3, para 0066-0075**].

Regarding claim 9, YAZAKI et al. disclosed that the communication nodes have preset, unique waiting times different from each other (**limited time or config _timeout**), and in the annular-path determination process, the determining node transmits the confirmation signal after the corresponding preset waiting time [**para 0073-0075**].

Regarding claim 11, YAZAKI et al. disclosed a communication node forming a network, wherein when an arbitrary transmission path in the network is eliminated (**link AB of Fig 11**) and a port of the communication node (**ports P1 and P2 of node C, Fig 11**) is corrected to a logically unavailable transmission path that is not the eliminated transmission path, the communication node transmits a confirmation signal through the logically unavailable transmission path by making the logically unavailable transmission path available temporarily, and determines whether or not an annular path (**loop**) is formed if the logically unavailable transmission path becomes available by determining whether or not the confirmation signal (**bus reset signal**) returns from a transmission path of the communication node other than the logically unavailable transmission path, and wherein when it is determined that no annular path is formed, the communication node keeps the logically unavailable transmission path available [**Figs 1-23, para 0001-0032, para 0094-0100, para 0129-0132**].

Response to Arguments

8. Applicant's arguments, see Remarks filed on 04/17/2006 with respect to claims 7-9,11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications should be directed to the attention to Venkatesh Haliyur whose phone number is 571-272-8616.

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The examiner can normally be reached on Monday-Friday from 9:00AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached @ (571)-272-3139. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (571)-272-2600 or fax to 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

Venkatesh Haliyur

Patent Examiner

vh
04/16/2006


RICKY Q. NGO
SUPERVISORY PATENT EXAMINER